

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AARON RICH

Plaintiff,

v.

EDWARD BUTOWSKY,  
MATTHEW COUCH, and  
AMERICA FIRST MEDIA,

Defendants.

Civil Action No. 1:18-cv-00681-RJL

Hon. Richard J. Leon

**PLAINTIFF'S UNOPPOSED MOTION FOR PERMISSION  
TO SERVE THIRD-PARTY WIKILEAKS VIA TWITTER**

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JOSHUA P. RILEY  
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BOIES SCHILLER FLEXNER LLP  
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*Attorneys for Plaintiff Aaron Rich*

Plaintiff Aaron Rich alleges that Defendants Ed Butowsky and Matt Couch defamed Mr. Rich by falsely stating that Mr. Rich and his brother, Seth Rich, stole documents from the Democratic National Committee (“DNC”) and provided those documents to WikiLeaks in exchange for money. WikiLeaks and its founder, Julian Assange, are uniquely positioned to confirm the truth: that neither Mr. Rich nor his brother has ever provided any documents to or received any payments from WikiLeaks or its agents. However, despite multiple attempts through various channels over more than a year, Mr. Rich to date has been unable to serve a subpoena on WikiLeaks or Mr. Assange—or even confirm an address or agent on whom to serve a subpoena on them—as the former does not have a known physical location for service of process and the latter had been under the protection of the Ecuadorian Embassy prior to his more recent incarceration in the United Kingdom.

Given Mr. Rich’s repeated failed efforts to serve a Rule 45 subpoena on WikiLeaks through traditional channels, Mr. Rich hereby requests the Court’s permission to serve a subpoena on third-party WikiLeaks via Twitter, where it maintains its most meaningful presence and the functional equivalent of its principal place of business, and where it has published content relevant to this action. Mr. Rich’s proposed subpoena to WikiLeaks accompanies this motion. *See* Declaration of Meryl C. Governski in Support of Mr. Rich’s Motion for Permission to Serve Third-Party WikiLeaks Via Twitter (hereinafter “Governski Decl.”) Ex. 1. Defendants consent to this motion.<sup>1</sup> Mr. Assange’s individual testimony is also critical to the expeditious resolution of this action; accordingly, Plaintiff is separately submitting a motion for the issuance of a letter of request

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<sup>1</sup> As Local Rule 7(m) requires, Plaintiff met and conferred with counsel for Defendants. Mr. Butowsky and Mr. Couch both consent to the filing of this motion. However, Mr. Couch has asked for this motion to reflect his position that he disputes that he asserted that Mr. Rich “stole” any documents. Mr. Couch’s position is that “[w]histleblowers receive compensation all the time and that does not make them ‘thiefs’.”

requesting judicial assistance from the court system in the United Kingdom in requiring Mr. Assange to appear for a deposition.

### **BACKGROUND**

Seth Rich is a former DNC staffer who was murdered in Washington, D.C. in July 2016 in what law enforcement has described as a botched armed robbery. *See* Dkt. 3 ¶¶ 25–26. Exploiting the circumstances of Seth Rich’s death, Defendants have promoted a false conspiracy theory that he and his brother, Plaintiff Aaron Rich, stole emails from the DNC and sold those emails to WikiLeaks, and that Seth Rich was assassinated as a result. *Id.* ¶¶ 6–7.

Defendants have seized upon statements that WikiLeaks’ founder, Julian Assange, made on a Dutch television program approximately one month after Seth Rich’s murder. In that interview, Mr. Assange made comments that Defendants have interpreted as an insinuation that Seth Rich was a WikiLeaks source.<sup>2</sup> Although WikiLeaks subsequently released a statement on Twitter that its policy of neither confirming nor denying “whether any person has ever been a source for WikiLeaks” should “not be taken to imply that Seth Rich was a source to WikiLeaks or to imply that his murder is connected to our publications,”<sup>3</sup> WikiLeaks nonetheless continued to publish tweets about Seth Rich that provided fodder for Defendants’ conspiracy theories.<sup>4</sup> Special

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<sup>2</sup> *See* Interview by Eelco Boschvan Rosenthal with Julian Assange, Founder, WikiLeaks, Nieuwsuur (Aug. 9, 2016), clip available at <https://www.youtube.com/watch?v=Kp7FkLBRpKg> (Assange: “Whistleblowers go to significant efforts to get us material and often very significant risks. There’s a 27-year-old who works for the DNC who was shot in the back, murdered, just a few weeks ago, for unknown reasons as he was walking down the streets in Washington.”).

<sup>3</sup> WikiLeaks (@wikileaks), Twitter (Aug. 10, 2016, 7:41 PM), <https://twitter.com/wikileaks/status/763565863861616640>.

<sup>4</sup> These tweets included a link to the now-retracted May 17, 2017 Fox News story alleging that Seth Rich was involved in stealing the DNC emails, and excerpts of audio recordings of private phone conversations Defendant Butowsky had with Rod Wheeler, and separately with Seymour Hersh. *See* WikiLeaks (@wikileaks), Twitter (May 16, 2017, 3:15 PM), <https://twitter.com/wikileaks/status/864605358488256514>; WikiLeaks (@wikileaks), Twitter

Counsel Robert Mueller concluded that Assange's and WikiLeaks' "statements about Rich implied falsely that he had been the source of the stolen DNC emails," noting that "information uncovered during the investigation discredit WikiLeaks' claims about the source of material that it posted."<sup>5</sup>

Mr. Rich seeks to subpoena WikiLeaks to confirm what Mr. Rich knows to be true: that they have no evidence that Mr. Rich or Seth Rich were involved in stealing the DNC emails (because they were not). Through counsel, Mr. Rich repeatedly has endeavored to serve subpoenas on WikiLeaks and Mr. Assange through numerous channels, but those efforts have been unsuccessful. WikiLeaks does not maintain a traditional physical address,<sup>6</sup> or an agent on whom service is authorized,<sup>7</sup> and Mr. Assange until his recent incarceration in the United Kingdom was in seclusion in the Ecuadorian Embassy.<sup>8</sup>

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(Aug. 1, 2017, 2:18 PM), <https://twitter.com/wikileaks/status/892494677823434753>; WikiLeaks (@wikileaks), Twitter (Aug. 1, 2017, 3:22 PM), <https://twitter.com/wikileaks/status/892510925244203008>.

<sup>5</sup> Special Counsel Robert S. Mueller, III, *Report On The Investigation Into Russian Interference In The 2016 Presidential Election* (Mar. 2019), at 48, <https://www.justice.gov/storage/report.pdf> (last visited Oct. 28, 2019).

<sup>6</sup> *WikiLeaks:Contact*, WikiLeaks, <https://wikileaks.org/wiki/WikiLeaks:Contact> (last visited Oct. 28, 2019) (providing post office box at the University of Melbourne as only address and indicating sender should "Pick any name likely to evade postal censorship in [his or her] country"); "Democrats serve Australia-based WikiLeaks with lawsuit via Twitter," *The Sydney Morning Herald* (Aug. 11, 2018, 10:09 AM), <https://www.smh.com.au/world/north-america/us-democrats-serve-australia-based-wikileaks-with-lawsuit-via-twitter-20180811-p4zww0.html> ("While WikiLeaks' physical presence is difficult to discern, it has a robust online presence, including an active presence on Twitter." (internal citation and quotation marks omitted)).

<sup>7</sup> *WikiLeaks:Legal*, WikiLeaks, <https://wikileaks.org/wiki/WikiLeaks:Legal> (last visited Oct. 28, 2019) (although the website states "Send all USA legal correspondence to our lawyers" at [wl-legal@sunsinepress.org](mailto:wl-legal@sunsinepress.org), and "To contact Wikileaks (USA)'s Designated Agent to receive notification of alleged infringement under the DMCA, please email this address listed below. You will then be provided with contact details for the Wikileaks Agent: [wl-legal@sunshinepress.org](mailto:wl-legal@sunshinepress.org)," as explained below, emails sent to that address get bounced back to the sender).

<sup>8</sup> David Welna, "12 Years Of Disruption: A WikiLeaks TimeLine," *NPR* (April 11, 2019, 2:11 PM), <https://www.npr.org/2019/04/11/712306713/12-years-of-disruption-a-wikileaks-timeline>;

Mr. Rich first attempted to serve subpoenas on Mr. Assange in July 2018 by executing letters rogatory pursuant to the Inter-American Convention on Letters Rogatory and Additional Protocol (“IACAP”). Mr. Rich submitted materials to the Department of Justice regarding that request, *see* Governski Decl. Ex. 2, but on July 19, 2018, the Department of Justice Office of International Judicial Assistance (“OIJA”) rejected those attempts, stating it was “unable to assist” in serving a Rule 45 subpoena on Mr. Assange because “[t]he proper route for obtaining evidence located abroad is pursuant to an international judicial assistance request.” *Id.* Ex. 3.

In April 2019, Mr. Rich’s counsel emailed Barry Pollack, who is Mr. Assange’s criminal defense counsel, to request Mr. Pollack’s assistance in serving a subpoena on Mr. Assange and/or WikiLeaks, *see id.* Ex. 4, but Mr. Pollack responded that he was “NOT authorized to accept service” of a subpoena to Mr. Assange, and that he does not represent WikiLeaks. *Id.* Ex. 5 at 2,

4. In August 2019, Mr. Rich’s counsel again contacted Mr. Pollack, explaining:

It has been near[l]y three months since this email exchange. While those three months have gone by, my client and his family have been defamed by individuals who continue to claim that Mr. Assange has relevant evidence regarding Seth and Aaron Rich that the Rich family is blocking him from releasing. As you know, that is false - as our letter clearly lays out, Mr. Rich has disclaimed any privilege and asked your client to provide whatever information he or WikiLeaks may have.

It is time to end this pointless harassment of the Rich family. Please advise whether you have communicated with your client regarding our message, which as you know contains more than a request to serve a subpoena.

If you are unwilling to help, we ask that you direct us promptly to a legal representative of either Mr. Assange or WikiLeaks with whom we may speak so that we may address this injustice.

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“Julian Assange: Wikileaks co-founder jailed over bail breach,” *BBC News* (May 1, 2019), <https://www.bbc.com/news/uk-48118908>.

*Id.* at 1. To date, counsel for Mr. Rich has received no response.

On September 10, 2019, Mr. Rich’s counsel sent an email to “wl-legal@sunshinepress.org,” which the WikiLeaks:Legal webpage provides as the address to which “all USA legal correspondence” should be sent, explaining that the sender “will then be provided with a postal address and contact details.”<sup>9</sup> *See* Governski Decl. Ex. 6. In its correspondence, Mr. Rich’s counsel asked whether WikiLeaks:Legal “would be willing to discuss conditions under which you could participate in our litigation, including but not limited to your agreement to accept service of a subpoena.” *Id.* Alternatively, Mr. Rich’s counsel requested a point of contact for outside counsel. *Id.* After receiving a notice that the email to wl-legal@sunshinepress.org was not delivered due to an “unavailable or busy” server, *id.* Ex. 7, Mr. Rich’s counsel attempted to send the same email to wl-lawyers@sunshinepress.org, *id.* Ex. 8, but Mr. Rich’s counsel again received notice that the email was undeliverable due to an “unavailable or busy” server, *id.* Ex. 9. On September 14, 2019, Mr. Rich’s counsel received notification that neither email was delivered despite 30 attempts made to deliver each email over a period of 93 hours. *See id.* Exs. 10, 11. On September 20, Mr. Rich’s counsel made yet another attempt to resend the email to both wl-legal@sunshinepress.org and wl-lawyers@sunshinepress.org. *See id.* Ex. 12. However, Mr. Rich’s counsel again received notifications that its email was not delivered to either recipient email address, notwithstanding six attempts made to deliver the email over a period of one hour and 30 attempts made to deliver the email over a period of 93 hours. *See id.* Exs. 13, 14, 15, 16.

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<sup>9</sup> *WikiLeaks:Legal*, WikiLeaks, <https://wikileaks.org/wiki/WikiLeaks:Legal> (last visited Oct. 28, 2019).

## ARGUMENT

The Court should permit Mr. Rich to serve WikiLeaks via Twitter. Defendants Couch and Butowsky both name the founder of WikiLeaks, Julian Assange, in their respective initial disclosures as an individual with discoverable information, thereby representing their view that WikiLeaks possesses evidence critical to their defenses. *See* Governski Decl. Exs. 17, 18. Defendant Couch goes one step further, repeatedly referencing the “leaking of the DNC emails to Wikileaks” in his descriptions of likely discoverable information possessed by the individuals on whom he intends to rely for his defense, illustrating the significance of the alleged fact that Mr. Rich and his brothers leaked DNC emails to WikiLeaks. *See id.* Ex. 17 ¶¶ I(2), (4), (11), (12), (13), (15), (22), (23). As the entity to which the emails were allegedly leaked, a subpoena to WikiLeaks is necessary to allow Mr. Rich to confirm what his Complaint alleges—namely, that there is no evidence that Mr. Rich and his brother provided DNC emails to WikiLeaks in exchange for payment.

Mr. Rich has been unable to effectuate service on WikiLeaks through traditionally contemplated channels despite repeated efforts to determine how to do so. *See supra* at 4–5; Exs. 2–16. The only address at which WikiLeaks is capable of being reached, and the most significant address for purposes of WikiLeaks’ presence, is its address on Twitter. Courts have permitted service via Twitter in analogous situations.

For example, the United States District court for the Southern District of New York permitted the DNC to serve a complaint and summons on WikiLeaks via Twitter after the DNC (1) attempted to request an address and contact details for service by sending an email to the address provided on the WikiLeaks:Legal webpage and receiving multiple notifications that the email had been rejected; (2) made diligent attempts to contact counsel who had represented

WikiLeaks in other matters; and (3) had “searched diligently for a more conventional means of serving WikiLeaks, but was unable to identify one.” Order, *Democratic Nat’l Comm. v. Russian Fed’n*, No. 1:18-cv-03501-JGK (S.D.N.Y. Aug. 6, 2018), Dkt. 156; Motion, *Democratic Nat’l Comm.*, No. 1:18-cv-03501-JGK (S.D.N.Y. July 20, 2018), Dkt. 149, at 7, 9. The DNC’s rationale, which the S.D.N.Y. implicitly adopted by granting its motion, was that service via Twitter was proper because “WikiLeaks has a strong and continued Twitter presence.” Motion, *Democratic Nat’l Comm.*, Dkt. 149 at 9.

Similarly, in *St. Francis Assisi v. Kuwait Fin. House*, the United States District Court for the Northern District of California authorized service via Twitter where the plaintiff was “unable to determine [the defendant’s] whereabouts” and service by social media would be “reasonably calculated to give notice and [was] the method of service most likely to reach” the defendant because he had “an active Twitter account and continue[d] to use it to communicate with his audience.” No. 3:16-CV-3240-LB, 2016 WL 5725002, at \*1–\*2 (N.D. Cal. Sept. 30, 2016) (citation and internal quotations omitted).<sup>10</sup>

The same rationale applied by the courts in *Democratic National Committee* and *St. Francis Assisi* applies here. A party should be permitted to serve a Rule 45 subpoena in any manner reasonably calculated to give the non-party actual notice of the proceedings and an opportunity to be heard, and as such should be permitted to serve a Rule 45 subpoena in any

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<sup>10</sup> See also *Kipu Sys., LLC v. ZenCharts, LLC*, No. 17-24733-Civ-WILLIAMS/TORRES, 2018 WL 8264634, at \*3 (S.D. Fla. Mar. 29, 2018); *WhosHere, Inc. v. Gokhan Orun*, No. 1:13-cv-00526-AJT-TRJ, 2014 WL 670817, at \*4 (E.D. Va. Feb. 20, 2014) (permitting service via social media where Defendant did not respond to process served and service through via social media was “highly likely to provide defendant notice” and the social media accounts were “regularly viewed and maintained by defendant”); *FTC v. PCCare247 Inc.*, No. 12 Civ. 7189(PAE), 2013 WL 841037, at \*6 (S.D.N.Y. Mar. 7, 2013) (permitting service via Facebook).



manner permitted for service of a summons and complaint under Rule 4. *See In re Shur*, 184 B.R. 640, 644 (Bankr. E.D.N.Y. 1995) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)); *E.A. Renfroe & Co., Inc. v. Moran*, No. 08-cv-00733-REB-MJW, 2008 WL 1806200, at \*5 (D. Colo. Apr. 21, 2008) (“[I]t is clear from the protections provided in Rule 45 that when a non-party receives actual notice . . . that party can protect itself . . . simply by filing a motion to quash . . . . [W]hat is mandated is that service be made in a manner which reasonably insures actual receipt of the subpoena by the witness.”); *OceanFirst Bank v. Hartford Fire Ins. Co.*, 794 F. Supp. 2d 752, 754 (E.D. Mich. 2011) (adopting “the reasoning of the courts that interpret Rule 45 to allow service of a subpoena by alternate means once the party seeking evidence demonstrates an inability to effectuate service after a diligent effort”); *Performance Credit Corp. v. EMC Mortg. Corp.*, No. SACV07-383 DOC (RNBx), 2009 WL 10675694, at \*3 (C.D. Cal. Apr. 16, 2009); *In re MTS Bank*, No. 17-21545-MC-WILLIAMS/TORRES, 2018 WL 1718685, at \*4 (S.D. Fla. Mar. 16, 2018).<sup>11</sup>

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<sup>11</sup> Plaintiff acknowledges that the D.C. Circuit indicated in dicta over 35 years ago that Rule 45 requires personal service and that there are policy reasons for distinguishing between permissible modes of service under Rules 4 and 45. *FTC v. Compagnie De Saint-Gobain-Pont-a-Mousson*, 636 F.2d 1300, 1312-13 (D.C. Cir. 1980). Apart from the fact that the D.C. Circuit’s pronouncement was made in dicta, several courts have called it into question, and “a strong, and well reasoned minority now accepts that some other form of personal service, should the circumstances support it, is acceptable.” *Performance Credit Corp.*, 2009 WL 10675694, at \*2; *see* 9A Fed. Prac. & Proc. Civ. § 2454 (3d ed.); *see, e.g., In re Shur*, 184 B.R. at 643 (“We are not persuaded that between Rules 4 and 45 there exists a policy distinction such that service other than personal service should be sufficient for the former but not the latter. . . . Rather, the policy underlying *both* rules is that the method of service guarantee due process of law.”); *Green v. Baca*, No. CV 02-204744MMMMANX, 2005 WL 283361, at \*1 n.1 (C.D. Cal. Jan. 31, 2005) (“[T]he court sees no policy distinction between Rules 4, 5 and 45, such that service other than personal service should be sufficient under the first two but not the third.”); *Ultradent Prods., Inc. v. Hayman*, No. M8-85 RPP, 2002 WL 31119425, at \*3 n.4 (S.D.N.Y. Sept. 24, 2002) (“The D.C. Circuit’s suggestion that Rule 4 exclusively advances the objective of providing notice to a party, while Rule 45 exclusively aims to compel a third party to comply with the subpoena is a distinction without substance. Service of a summons and complaint on a party, governed by Rule 4, both

A construction of Rule 45 that prohibits service by a mode permitted under Rule 4, and requires personal service instead, is nonsensical where, as here, service is to be effectuated on a location-less entity rather than an individual. *See In re Shur*, 184 B.R. at 642 (“[T]he drafters [of the Federal Rules] knew how to indicate a personal service requirement where it was intended” (citation and internal quotations omitted)). First, the plain language of Rule 45 does not require personal service. Instead, the rule requires that the subpoena be served by “*delivering* a copy” to the named entity. Fed. R. Civ. P. 45(b)(1) (emphasis added); *see In re Shur*, 184 B.R. at 642 (“Nothing in the everyday meaning of any of these words expresses or suggests a requirement that ‘delivery’ be effected exclusively by the hand of one human being to the hand of another.”); *Moran*, 2008 WL 1806200, at \*4. Second, construing Rule 45 to require personal service would render superfluous Rule 45(b)(4), which states proof of service is accomplished by “filing with the issuing court a statement showing the date *and manner* of service,” as well as Rule 4(e)(2)(a), which explicitly specifies that delivery must be done “personally.” Third, the notion of “personal service” is a misnomer as applied to an international entity (such as WikiLeaks) whose only known physical address is a post office box at the University of Melbourne. WikiLeaks’ only true

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notifies the party of a pending action and compels that party to comply by filing responsive papers or suffering a default judgment to be entered against it. Similarly, service of a subpoena on a third party witness to a litigation notifies the witness that his appearance is required, and compels compliance with the order therein. The elements of notice and compulsion exist under both Rules.”); *Doe v. Hersemann*, 155 F.R.D. 630, 631 (N.D. Ind. 1994) (“This court fails to see the power of this distinction: a subpoena to a non-party deponent is designed to notify the party that the court requires his or her presence at a particular time and place just as surely as a summons and complaint notifies a person that he or she has been sued.”); *Bland v. Fairfax Cty., Va.*, 275 F.R.D. 466, 471-72 (E.D. Va. 2011). Moreover, the dicta in *Compagnie De Saint-Gobain-Pont-a-Mousson*—released more than 35 years ago—could not have envisioned a location-less entity such as WikiLeaks that exists solely through its online presence, which it uses to reach a massive audience, including in the United States. Thus, the general principles outlined in that dicta need not be applied to the novel circumstances presented by this motion.

disclosed existence is its online persona; service on such an entity necessitates an approach that acknowledges the realities of the entity.

“In accordance with the interpretive principle that the Federal Rules of Civil Procedure ‘should be construed and administered to secure the just, speedy, and inexpensive determination of every action,’ and given the textual ambiguity of Rule 45[,] . . . effective service under Rule 45” should permit service via modes endorsed for service under Rule 4. *Moran*, 2008 WL 1806200, at \*6 (quoting Fed. R. Civ. P. 1). “The Federal Rules of Civil Procedure should not be construed as a shield for a witness who is purposefully attempting to evade service.” *Id.* (permitting service of a subpoena by a method other than personal service where the witness “cannot be readily or easily located to effect hand-to-hand personal service”); *see also Performance Credit Corp.*, 2009 WL 10675694, at \*2 (finding “some form of service other than hand-to-hand personal service should be authorized” for service of Rule 45 subpoena where third party was “attempting to avoid and evade service of process” but was “one of, if not the most important witness” in the action); *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2002 WL 1822432, at \*2 (D. Kan. July 23, 2002); *Cordius Trust v. Kummerfeld*, No. 99 CIV. 3200(DLC), 2000 WL 10268, at \*1–\*2 (S.D.N.Y. Jan. 3, 2000).

WikiLeaks should not be permitted to evade service—and Mr. Rich should not be prejudiced—simply because WikiLeaks has organized itself to lack a definitive physical location at which personal service might be possible. WikiLeaks uses Twitter as a mass publishing platform to reach a global audience, including a massive audience in the United States, and WikiLeaks both sends and receives communications directly on that platform. Mr. Rich has taken reasonable steps to effectuate service here through alternate means, just as the DNC did with respect to WikiLeaks in *Democratic National Committee*. Mr. Rich’s counsel has tried to contact counsel for WikiLeaks

at the address provided on its Legal webpage and has attempted to determine WikiLeaks' agent via Mr. Assange's counsel in other cases. Because those efforts have proven futile, this Court should permit Mr. Rich to serve WikiLeaks with a subpoena via Twitter given its role as "one of, if not the most important witness" in this action. *Western Resources*, 2002 WL 1822432, at \*2.<sup>12</sup>

### **CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests authorization to serve WikiLeaks by Twitter.

Dated: October 31, 2019

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***Attorneys for Plaintiff Aaron Rich***

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<sup>12</sup> Mr. Rich recognizes that there may be obstacles to enforcing the subpoena in question, but that should not bear on the question of service. Mr. Rich hopes that WikiLeaks will voluntarily comply if served in the spirit of its professed goals of transparency and accountability. As such, this Court need not decide now how it might evaluate the remedies available in the event that WikiLeaks declines to respond to the subpoena. Mr. Rich requests only that the Court permit service of the subpoena via Twitter in light of the fact that the purpose of service is to ensure notice, and with respect to WikiLeaks, service via Twitter is the most practical and equitable way to ensure notice.

**CERTIFICATE OF SERVICE**

The undersigned counsel certifies that on October 31, 2019, the foregoing document was (1) filed through the CM/ECF system and thereby served electronically on counsel and parties who receive notice through CM/ECF and (2) emailed to Philip Harvey at pharvey@harveybinnall.com, Edward Butowsky at ebutowsky@gmail.com, Eden Quainton at equainton@gmail.com, and Matthew Couch and America First Media at mattcouch@af-mg.com.

Dated: October 31, 2019

/s/ Michael J. Gottlieb  
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AARON RICH

Plaintiff,

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EDWARD BUTOWSKY,  
MATTHEW COUCH, and  
AMERICA FIRST MEDIA,

Defendants.

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Hon. Richard J. Leon

**DECLARATION OF MERYL C. GOVERNSKI IN SUPPORT OF MR. RICH'S  
MOTION FOR PERMISSION TO SERVE THIRD-PARTY WIKILEAKS VIA  
TWITTER**

I, Meryl C. Governski, declare under penalty of perjury that the foregoing is true and correct:

1. I am counsel for Plaintiff Aaron Rich. This declaration is based on my personal knowledge and upon information provided to me in my official capacity.
2. Attached as Exhibit 1 to this Declaration is a true and correct copy of Mr. Rich's proposed subpoena to WikiLeaks.
3. Attached as Exhibit 2 to this Declaration are true and correct copies of a July 17, 2018 email from M. Governski to K. Ossenova (DOJ-Office of International Judicial Assistance ("DOJ-OIJA")) re: IACAP Inquiry and the July 17, 2018 Letter from M. Governski to K. Ossenova (DOJ-OIJA) that was attached to the email.
4. Attached as Exhibit 3 to this Declaration is a true and correct copy of a July 19, 2018 email from K. Ossenova (DOJ-OIJA) to M. Governski re: IACAP Inquiry.

5. Attached as Exhibit 4 to this Declaration are true and correct copies of an April 19, 2019 email from M. Gottlieb to B. Pollack re: Correspondence re J. Assange and the April 19, 2019 Letter from M. Gottlieb to B. Pollack that was attached to the email.

6. Attached as Exhibit 5 to this Declaration is a true and correct copy of an email chain between M. Gottlieb and B. Pollack dated April 19, 2019 through August 4, 2019, with page numbers added for ease of reference.

7. Attached as Exhibit 6 to this Declaration is a true and correct copy of a September 10, 2019 email from M. Governski to wl-legal@sunshinepress.org re: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.).

8. Attached as Exhibit 7 to this Declaration is a true and correct copy of a September 10, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 10, 2019 email from M. Governski to wl-legal@sunshinepress.org re: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.) was not delivered due to an “unavailable or busy” server.

9. Attached as Exhibit 8 to this Declaration is a true and correct copy of a September 10, 2019 email from M. Governski to wl-lawyers@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.).

10. Attached as Exhibit 9 to this Declaration is a true and correct copy of a September 10, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 10, 2019 email from M. Governski to wl-lawyers@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.) was not delivered due to an “unavailable or busy” server.

11. Attached as Exhibit 10 to this Declaration is a true and correct copy of a September 14, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 10, 2019 email from M. Governski to wl-legal@sunshinepress.org re: Rich v. Butowsky et al,

No. 1:18-cv-00681-RJL (D.D.C.) was not delivered due to an “unavailable or busy” server “after 30 attempt(s) to deliver over a period of 93 hour(s).”

12. Attached as Exhibit 11 to this Declaration is a true and correct copy of a September 14, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 10, 2019 email from M. Governski to wl-lawyers@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.) was not delivered due to an “unavailable or busy” server “after 30 attempt(s) to deliver over a period of 93 hour(s).”

13. Attached as Exhibit 12 to this Declaration is a true and correct copy of a September 20, 2019 email from M. Governski to wl-lawyers@sunshinepress.org and wl-legal@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.).

14. Attached as Exhibit 13 to this Declaration is a true and correct copy of a September 20, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 20, 2019 email from M. Governski to wl-lawyers@sunshinepress.org and wl-legal@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.) was not delivered to wl-lawyers@sunshinepress.org due to an “unavailable or busy” server “after 6 attempt(s) to deliver over a period of 1 hour(s).”

15. Attached as Exhibit 14 to this Declaration is a true and correct copy of a September 20, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 20, 2019 email from M. Governski to wl-lawyers@sunshinepress.org and wl-legal@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.) was not delivered to wl-legal@sunshinepress.org due to an “unavailable or busy” server “after 6 attempt(s) to deliver over a period of 1 hour(s).”



16. Attached as Exhibit 15 to this Declaration is a true and correct copy of a September 24, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 20, 2019 email from M. Governski to wl-lawyers@sunshinepress.org and wl-legal@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.) was not delivered to wl-legal@sunshinepress.org due to an “unavailable or busy” server “after 30 attempt(s) to deliver over a period of 93 hour(s).”

17. Attached as Exhibit 16 to this Declaration is a true and correct copy of a September 24, 2019 Mimecast Email Alert delivered to M. Governski indicating the September 20, 2019 email from M. Governski to wl-lawyers@sunshinepress.org and wl-legal@sunshinepress.org re: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C.) was not delivered to wl-lawyers@sunshinepress.org due to an “unavailable or busy” server “after 30 attempt(s) to deliver over a period of 93 hour(s).”

18. Attached as Exhibit 17 to this Declaration is a true and correct copy of Defendant Couch’s Rule 26(a) Initial Disclosures, served on Plaintiff on August 18, 2019.

19. Attached as Exhibit 18 to this Declaration is a true and correct copy of Defendant Butowsky’s Rule 26(a) Initial Disclosures, served on Plaintiff on August 16, 2019.

Executed: October 31, 2019

/s/ Meryl C. Governski  
MERYL C. GOVERNSKI  
D.C. Bar No. 1023549  
1401 New York Ave NW  
Washington, DC 20005  
Tel: (202) 237-2727  
Fax: (202) 237-6131  
mgovernski@bsfllp.com

# EXHIBIT 1

## UNITED STATES DISTRICT COURT

for the  
District of Columbia

Aaron Rich

*Plaintiff*

v.

Edward Butowsky et al

*Defendant*

Civil Action No. 1:18-cv-00681-RJL

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

WikiLeaks c/o Twitter @wikileaks

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Schedule A

Place: Willkie Farr & Gallagher LLP  
875 K Street, NW  
Washington, D.C. 20006-1238

Date and Time:

11/30/2019 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: \_\_\_\_\_

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

/s/ Michael J. Gottlieb

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Aaron Rich, who issues or requests this subpoena, are:

Michael J. Gottlieb, Willkie Farr & Gallagher LLP, 1875 K Street, NW Washington, D.C. 20006, mgottlieb@willkie.com

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:18-cv-00681-RJL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

## **SCHEDULE A**

This subpoena for documents, including each individual Request for Documents (collectively, the “Requests”), shall be read and interpreted in accordance with the definitions and instructions identified below.

### **GENERAL DEFINITIONS**

Plaintiffs incorporate by reference all the instructions, definitions, and rules contained in the Federal Rules of Civil Procedure and for purposes of this Subpoena, the following definitions shall apply:

1. Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition.
2. The terms defined herein should be construed broadly to the fullest extent of their meaning in a good faith effort to comply with the Federal Rules of Civil Procedure.
3. The term “Communication” means any exchange, transfer, or dissemination of information, regardless of the means by which it is accomplished.
4. The term “concerning” means “relating to,” “referring to,” “describing,” “evidencing,” or “constituting.”
5. The terms “Document” and “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “Documents” in Fed. R. Civ. P. 34(a)(1)(A).
6. The term “Electronically Stored Information” or “ESI” is defined to be synonymous in meaning and equal in scope to the usage of “electronically stored information” in Fed. R. Civ. 34(a)(1)(A). “ESI” includes data on all servers, including IP addresses, MAC addresses, archived data, deleted data, and legacy data, as well as data on removable electronic media and in any other location where documents relevant to the Requests may be found.

7. The terms “You,” and “Your” mean and include non-party WikiLeaks and all of Your agents, representatives, or other persons, organizations, or others acting or purporting to act on Your behalf, or under Your control, including Julian Assange.

### **SPECIFIC DEFINITIONS**

8. “Aaron Rich” refers to Aaron Nathan Rich, the plaintiff in the above-captioned litigation.

9. “Seth Rich” refers to Seth Conrad Rich, the brother of the plaintiff in the above-captioned litigation.

### **INSTRUCTIONS**

A. Your responses to the following Requests shall be based on all knowledge and information (whether or not hearsay or admissible) in Your possession, custody, or control.

B. Produce all responsive documents in Your possession, custody, or control, regardless of whether such documents are possessed directly by You or persons or entities under Your control.

C. If no responsive documents exist for any particular requests, specifically state that no responsive documents exist.

D. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

E. Certify that Your production is complete and correct in accordance with specifications of the attached Certification that Response is Complete and Correct form provided as Exhibit A.

F. All Documents shall be produced in electronic form and shall include related metadata. Produce in TIFF or native format (i.e., Word documents as .DOC or .DOCX files, Outlook emails as .PST files, Excel spreadsheets as .XLS or .XLSX files, Adobe PDF documents as .PDF files). For all forms of ESI, ensure that ESI is provided in unencrypted form and free of password protection.

G. Any alteration of a responsive document, including any marginal notes, handwritten notes, underlining, date stamps, received stamps, endorsed or filed stamps, drafts, revisions, modifications, and other versions of a document, is a responsive document in its own right and must be produced.

H. In the event any Document or Communication is withheld on the basis of the attorney-client privilege, work product doctrine, or any other right to non-disclosure on any other basis, You shall produce a Privilege Log.

### **DOCUMENTS TO BE PRODUCED**

#### **Document Request No. 1**

All Documents and Communications referencing, in any respect, Aaron Rich and/or or Seth Rich, excepting only publicly disclosed Twitter messages that you have published to your @wikileaks Twitter account or publicly disclosed Twitter messages in which your @wikileaks Twitter account has been tagged.

#### **Document Request No. 2**

All Documents related in any way to your August 10, 2016 @wikileaks tweet, located at <https://twitter.com/wikileaks/status/763565863861616640>; as well as Your August 9, 2016 interview with Dutch television located at <https://www.youtube.com/watch?v=Kp7FkLBRpKg>;



included in your responsive production should be any Documents or Communications in which you discussed the above Tweet and Television appearance with third parties.

**CERTIFICATION THAT RESPONSE IS CORRECT AND COMPLETE**

I, \_\_\_\_\_, certify as follows:

1. The enclosed production of Documents and Communications were prepared and assembled under my personal supervision;
2. The Documents and Communications contained in this production to the Subpoena are authentic, genuine and what they purport to be;
3. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and
4. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address, e-mail and telephone number: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT 2

**From:** [Meryl Governski](#)  
**To:** [Katerina.v.ossenova@usdoj.gov](mailto:Katerina.v.ossenova@usdoj.gov)  
**Cc:** [Joshua Riley](#)  
**Subject:** IACAP Inquiry  
**Attachments:** [2018-07-17 M. Governski Ltr to DOJ re Rich.pdf](#)

---

Ms. Ossenova,

Please see the attached correspondence.

Respectfully,  
Meryl Governski

**Meryl Conant Governski**

Associate

---

**BOIES SCHILLER FLEXNER LLP**

1401 New York Avenue, N.W.

Washington, DC 20005

(t) 202 895 7565

(m) 301 502 5638

(f) 202 237 6131

[mgovernski@bsfllp.com](mailto:mgovernski@bsfllp.com)

[www.bsfllp.com](http://www.bsfllp.com)



July 17, 2018

**VIA EMAIL**

Katerina Ossenova  
US Department of Justice  
Suite 8102  
1100 L St NW  
Washington, DC 20530  
202-353-0194  
[Katerina.V.Ossenova@usdoj.gov](mailto:Katerina.V.Ossenova@usdoj.gov)

**Re: *Rich v. Butowsky Et Al.*, No. 1:18-cv-00681-RJL (U.S. District Court  
for the District of Columbia)**

Dear Ms. Ossenova:

On June 25, 2018, we spoke by telephone about the process by which civil litigants can serve an individual located abroad pursuant to the Inter-American Convention on Letters Rogatory and Additional Protocol ("IACAP"). I am writing to formally request assistance from the Department of Justice Office of International Judicial Assistance ("Office") in serving upon Julian Assange, who is residing in the Ecuadorian Embassy in London, a Rule 45 subpoena in connection with the above-captioned case. Please confirm in writing whether your Office is willing to assist in that regard and, if so, the proper process by which we can effectuate service.

Sincerely,

A handwritten signature in dark ink, appearing to read "Meryl Governski".

Meryl Governski  
Joshua Riley  
Boies Schiller Flexner LLP  
1401 New York Ave NW  
Washington DC, 20005  
202-237-2727  
[mgovernski@bsfllp.com](mailto:mgovernski@bsfllp.com)  
[jriley@bsfllp.com](mailto:jriley@bsfllp.com)

BOIES SCHILLER FLEXNER LLP

# EXHIBIT 3

**From:** [Ossenova, Katerina V. \(CIV\)](#)  
**To:** [Meryl Governski](#)  
**Cc:** [Joshua Riley](#)  
**Subject:** RE: IACAP Inquiry  
**Date:** Thursday, July 19, 2018 2:21:59 PM

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Ms. Governski,

The Office of International Judicial Assistance (OIJA), within the Department of Justice Civil Division's Office of Foreign Litigation, serves as the United States Central Authority pursuant to the Inter-American Convention on Letters Rogatory and Additional Protocol (Inter-American Convention). As noted on our website, "OIJA plays no role with regard to service requests involving persons or parties located abroad in private litigation matters" and "OIJA does not process, review, or transmit Letters of Request or letters rogatory for the collection of evidence in a foreign state in private U.S. litigation matters."

In addition, the United States is only a party to the Inter-American Convention for the purposes of service of documents, and not for the purposes of obtaining evidence. It is improper to use the Inter-American Convention to "serve" a Rule 45 subpoena. The proper route for obtaining evidence located abroad is pursuant to an international judicial assistance request.

Finally, as explained during our June 25, 2018 phone conversation, OIJA is unable able to transmit any Inter-American Convention request to the United Kingdom as the United Kingdom is not a party to that Convention. Thus, our office is unable to assist you in this matter.

Best regards,

Katerina V. Ossenova  
Trial Attorney, U.S. Department of Justice  
Office of Foreign Litigation  
Office of International Judicial Assistance  
1100 L Street, NW, Room 8102  
Washington, D.C. 20530  
Telephone: +202-353-0194  
[Katerina.V.Ossenova@usdoj.gov](mailto:Katerina.V.Ossenova@usdoj.gov)

---

**From:** Meryl Governski [mailto:MGovernski@BSFLLP.com]  
**Sent:** Tuesday, July 17, 2018 10:50 AM  
**To:** Ossenova, Katerina V. (CIV) <kossenov@CIV.USDOJ.GOV>  
**Cc:** Joshua Riley <JRiley@BSFLLP.com>  
**Subject:** IACAP Inquiry

Ms. Ossenova,

Please see the attached correspondence.

Respectfully,  
Meryl Governski

**Meryl Conant Governski**

Associate

---

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# EXHIBIT 4

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**From:** Gottlieb, Michael <MGottlieb@willkie.com>  
**Sent:** Friday, April 19, 2019 3:15 PM  
**To:** 'bpollack@robbinsrussell.com'  
**Cc:** Hall, Samuel; Joshua Riley  
**Subject:** Correspondence re J. Assange  
**Attachments:** 2019.04.19 Assange Subpoena.pdf; M Gottlieb letter to B Pollack.pdf

Dear Mr. Pollack,

Please see the attached correspondence regarding your client, Mr. Assange.

Respectfully,

Mike Gottlieb

**Michael Gottlieb**  
**Willkie Farr & Gallagher LLP**  
1875 K Street, N.W. | Washington, DC 20006-1238  
Direct: [+1 202 303 1442](tel:+12023031442) | Fax: +1 202 303 2442  
[mgottlieb@willkie.com](mailto:mgottlieb@willkie.com) | [vCard](#) | [www.willkie.com/bio](http://www.willkie.com/bio)

# WILLKIE FARR & GALLAGHER LLP

1875 K Street, N.W.  
Washington, DC 20006-1238

Tel: 202 303 1000  
Fax: 202 303 2000

April 19, 2019

Barry J. Pollack  
2000 K Street, NW, 4<sup>th</sup> Floor  
Washington DC 20006-1809  
Phone: (202)775-4514  
bpollack@robbinsrussell.com

**Re: *Rich v. Butowsky et al*, Civil Action No. 1:18-cv-00681-RJL**

Dear Mr. Pollack:

I understand that you represent Julian Assange, including in connection with the March 2018 indictment charging him with conspiracy to commit computer intrusion. *See, e.g.*, <https://www.npr.org/2019/04/11/712128612/julian-assange-arrested-in-london>; <https://www.law.com/nationallawjournal/2019/04/11/robbins-russell-sits-out-julian-assange-case-as-pollack-gears-up-for-defense/>. (Please advise me promptly if you also represent Mr. Assange's organization, WikiLeaks, in connection with the criminal matter referenced above or any other matter.) I write to request your client's authorization to allow us to serve, via delivery to you, the attached subpoena in connection with the above-captioned litigation, pursuant to Rule 45 of the Federal Rules of Civil Procedure.

We represent Aaron Rich, the brother of the murdered Democratic National Committee (DNC) staffer, Seth Rich. For the past two years, our client has been falsely accused of participating with his brother in the theft of documents from the DNC, the delivery of those documents to WikiLeaks, and the receipt of funds for the foregoing. All of those accusations are false and defamatory. As your client knows, Mr. Rich was not involved in any of the aforementioned (or related) activities and never communicated with your client, WikiLeaks, or that organization's agents or representatives. These accusations have caused Mr. Rich and his family severe emotional and reputational harm, and they have re-victimized a decent and law-abiding citizen who had already suffered through severe trauma following his only sibling's unsolved murder.

While your client may not be responsible for the grotesque accusations that have been made against Aaron Rich—indeed, it is unclear whether your client knows that Seth Rich has a surviving sibling—he is responsible for making obfuscatory public statements regarding Mr. Rich that have encouraged conspiracy theories relating to his death. *See, e.g.*, <https://www.youtube.com/watch?v=Kp7FkLBRpKg>. Those statements stopped short of claiming that Seth Rich was WikiLeak's

April 19, 2019

Page 2

source, but they appear to have been designed to imply as much, and thereby to provide ammunition for people to question and/or assume that Seth Rich was involved. Predictably, Mr. Assange's statements have caused those who are susceptible to conspiracy theories to proclaim that Mr. Assange has provided evidence that Seth Rich was the source of the DNC documents that WikiLeaks published.

Mr. Rich knows that he has never communicated with WikiLeaks, and he also knows that he and Seth did not conspire to steal documents from the DNC and provide them to WikiLeaks or anyone else. But despite his denials, his lawsuit, and the lack of any evidence, of any kind, substantiating any wrongdoing on our client's part, Mr. Rich has been unable to quiet the false accusations against him. Mr. Assange is uniquely positioned to clear Mr. Rich's name—he is one of the only individuals apart from our client who can personally attest to the falsity of the implications being drawn from the statements Mr. Assange has made about Seth Rich.

As you know, your client's statements regarding Seth Rich were recently addressed in the Report of Special Counsel Robert Mueller. Report On The Investigation Into Russian Interference In The 2016 Presidential Election ("Report"), Volume I, March 2019 ("The Report"). The Report concluded that your client's "statements about Rich implied *falsely* that he had been the source of the stolen DNC emails," noting that "information uncovered during the investigation discredit WikiLeaks's claims about the source of material it posted." Report, at 48 (emphasis added). Those conclusions were based in part on data obtained by the Special Counsel, including but not limited to Twitter messages sent by WikiLeaks and **forensic images of the DNC servers**. See, e.g., Report, at 40 n.135. That data showed, among other things, that on July 14, 2016, transfers of a large trove of DNC emails were made to WikiLeaks from "Guccifer 2.0," using instructions provided to WikiLeaks via email and Twitter, **the receipt of which WikiLeaks confirmed on July 18, 2016 and published on July 22, 2016**. Report, at 46-47. Seth Rich, of course, was murdered on July 10, 2016, which means that he could not have been involved in that transfer, or any the subsequent exchanges that took place in July, August, and September.

Your client's professed commitment to truth and transparency should motivate his cooperation with our efforts to investigate this matter. If the U.S. Government hinted that it was in possession of unreleased information that would help resolve questions regarding a politically charged issue, we have no doubt that Mr. Assange and WikiLeaks would both call for the release of, and would publish, such information without hesitation. Indeed, WikiLeaks has criticized the redactions in the Special Counsel's Report, stating that "We disapprove of the large redactions, *which permit conspiracy theories to abound*." We agree with that position, which applies with equal force to WikiLeaks. Mr. Assange can and must now do his part by agreeing to accept service of our subpoena and producing documents in this case.

Some have accused Mr. Rich of attempting to suppress information relating to his brother's murder, including by making the offensive accusation that Mr. Rich is trying to stop WikiLeaks from disclosing relevant information. Nothing could be further from the truth. Mr. Rich always has believed that anyone with information regarding his brother's murder should come forward to assist law enforcement's investigation into the matter. Mr. Rich attempted in 2018 to enlist the assistance of the Justice Department to serve Mr. Assange with a subpoena through diplomatic channels, but the Department declined assistance. To avoid any ambiguity on the issue, please understand that the position of Mr. Rich, as the Executor of the Estate of Seth Rich, is that because neither he nor Seth Rich were

April 19, 2019

Page 3

sources of information to WikiLeaks, neither Mr. Assange nor WikiLeaks are entitled to withhold information from production on the basis of a purported “source privilege.” In any event, the subpoena Mr. Rich is requesting to serve here disables any claim that might be advanced regarding purported “source privilege” or “source confidentiality” concerns regarding Seth or Aaron Rich.

Although we believe that Mr. Rich’s subpoena is narrowly tailored, we are of course willing to meet and confer to resolve any objections your client may have, including to discuss whether there are alternative ways he can assist Mr. Rich in clearing his name. We will accept an electronic data production any way you prefer, including via a secure FTP or hard drive (which we would be happy to provide at an address of your choice), but we will insist that your client produce electronic data, if any, in TIFF or native format with relevant metadata, to allow us to validate the authenticity of such materials.

Thank you for your prompt attention to this matter. We look forward to your response.

Respectfully,

/s/ Michael J. Gottlieb  
Willkie Farr & Gallagher LLP  
1875 K Street, NW  
Washington, DC 20006  
Phone: (202) 303-1442  
Fax: (202) 303-2126  
mgottlieb@willkie.com

cc: All parties in *Rich* litigation

Enclosures: Subpoena to J. Assange

## UNITED STATES DISTRICT COURT

for the  
District of Columbia

Aaron Rich

*Plaintiff*

v.

Edward Butowsky et al

*Defendant*

Civil Action No. 1:18-cv-00681-RJL

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

Julian Assange c/o Barry J. Pollack, 2000 K Street, NW, 4th Floor, Washington DC 20006-1809

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Schedule A

Place: Willkie Farr & Gallagher LLP  
875 K Street, NW  
Washington, D.C. 20006-1238

Date and Time:

05/06/2019 5:00 pm

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: \_\_\_\_\_

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

/s/ Michael J. Gottlieb

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Aaron Rich, who issues or requests this subpoena, are:

Michael J. Gottlieb, Willkie Farr & Gallagher LLP, 1875 K Street, NW Washington, D.C. 20006-1238

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:18-cv-00681-RJL

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.



## **SCHEDULE A**

This subpoena for documents, including each individual Request for Documents (collectively, the “Requests”), shall be read and interpreted in accordance with the definitions and instructions identified below.

### **GENERAL DEFINITIONS**

Plaintiffs incorporate by reference all the instructions, definitions, and rules contained in the Federal Rules of Civil Procedure and for purposes of this Subpoena, the following definitions shall apply:

1. Unless words or terms have been given a specific definition herein, each word or term used herein shall be given its usual and customary dictionary definition.
2. The terms defined herein should be construed broadly to the fullest extent of their meaning in a good faith effort to comply with the Federal Rules of Civil Procedure.
3. The term “Communication” means any exchange, transfer, or dissemination of information, regardless of the means by which it is accomplished.
4. The term “concerning” means “relating to,” “referring to,” “describing,” “evidencing,” or “constituting.”
5. The terms “Document” and “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “Documents” in Fed. R. Civ. P. 34(a)(1)(A).
6. The term “Electronically Stored Information” or “ESI” is defined to be synonymous in meaning and equal in scope to the usage of “electronically stored information” in Fed. R. Civ. 34(a)(1)(A). “ESI” includes data on all servers, including IP addresses, MAC addresses, archived data, deleted data, and legacy data, as well as data on removable electronic media and in any other location where documents relevant to the Requests may be found.

7. The terms “You,” and “Your” mean and include non-party Julian Assange and all of Your agents, representatives, or other persons, organizations, or others acting or purporting to act on Your behalf, or under Your control.

### **SPECIFIC DEFINITIONS**

8. “Aaron Rich” refers to Aaron Nathan Rich, the plaintiff in the above-captioned litigation.

9. “Seth Rich” refers to Seth Conrad Rich, the brother of the plaintiff in the above-captioned litigation.

### **INSTRUCTIONS**

A. Your responses to the following Requests shall be based on all knowledge and information (whether or not hearsay or admissible) in Your possession, custody, or control.

B. Produce all responsive documents in Your possession, custody, or control, regardless of whether such documents are possessed directly by You or persons or entities under Your control.

C. If no responsive documents exist for any particular requests, specifically state that no responsive documents exist.

D. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

E. Certify that Your production is complete and correct in accordance with specifications of the attached Certification that Response is Complete and Correct form provided as Exhibit A.

F. All Documents shall be produced in electronic form and shall include related metadata. Produce in TIFF or native format (i.e., Word documents as .DOC or .DOCX files, Outlook emails as .PST files, Excel spreadsheets as .XLS or .XLSX files, Adobe PDF documents as .PDF files). For all forms of ESI, ensure that ESI is provided in unencrypted form and free of password protection.

G. Any alteration of a responsive document, including any marginal notes, handwritten notes, underlining, date stamps, received stamps, endorsed or filed stamps, drafts, revisions, modifications, and other versions of a document, is a responsive document in its own right and must be produced.

H. In the event any Document or Communication is withheld on the basis of the attorney-client privilege, work product doctrine, or any other right to non-disclosure on any other basis, You shall produce a Privilege Log.

### **DOCUMENTS TO BE PRODUCED**

#### **Document Request No. 1**

All Documents and Communications between You and Aaron Rich or Seth Rich.

#### **Document Request No. 2**

All Documents and Communications between You and any other person referencing, in any respect, Aaron Rich.

#### **Document Request No. 3**

All Documents related in any way to your suggestion that Seth Rich may have been a source to WikiLeaks, including as referenced and/or implied in the August 10, 2016 @wikileaks tweet, located at <https://twitter.com/wikileaks/status/763565863861616640>; as well as Your August 9, 2016 interview with Dutch television located at

<https://www.youtube.com/watch?v=Kp7FkLBRpKg>; included in your responsive production should be any Documents or Communications in which you discussed the above Tweet and Television appearance with third parties.

**CERTIFICATION THAT RESPONSE IS CORRECT AND COMPLETE**

I, \_\_\_\_\_, certify as follows:

1. The enclosed production of Documents and Communications were prepared and assembled under my personal supervision;
2. The Documents and Communications contained in this production to the Subpoena are authentic, genuine and what they purport to be;
3. Attached is a true and accurate record of all persons who prepared and assembled any productions and responses to the Subpoena, all persons under whose personal supervision the preparation and assembly of productions and responses to the Subpoena occurred, and all persons able competently to testify: (a) that such productions and responses are complete and correct to the best of such person's knowledge and belief; and (b) that any Documents produced are authentic, genuine and what they purport to be; and
4. Attached is a true and accurate statement of those requests under the Subpoena as to which no responsive Documents were located in the course of the aforementioned search.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address, e-mail and telephone number: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

# EXHIBIT 5

**From:** [Gottlieb, Michael](#)  
**To:** [Pollack, Barry](#)  
**Cc:** [Hall, Samuel](#); [Joshua Riley](#)  
**Subject:** Re: Correspondence re J. Assange  
**Date:** Wednesday, August 14, 2019 10:27:58 PM

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Mr. Pollack -

It has been nearly three months since this email exchange. While those three months have gone by, my client and his family have been defamed by individuals who continue to claim that Mr. Assange has relevant evidence regarding Seth and Aaron Rich that the Rich family is blocking him from releasing. As you know, that is false - as our letter clearly lays out, Mr. Rich has disclaimed any privilege and asked your client to provide whatever information he or WikiLeaks may have.

It is time to end this pointless harassment of the Rich family. Please advise whether you have communicated with your client regarding our message, which as you know contains more than a request to serve a subpoena.

If you are unwilling to help, we ask that you direct us promptly to a legal representative of either Mr. Assange or WikiLeaks with whom we may speak so that we may address this injustice.

Regards,

Mike Gottlieb

**Michael Gottlieb**  
**Willkie Farr & Gallagher LLP**  
1875 K Street, N.W. | Washington, DC 20006-1238  
Direct: [+1 202 303 1442](tel:+12023031442) | Fax: +1 202 303 2442  
[mgottlieb@willkie.com](mailto:mgottlieb@willkie.com) | [vCard](#) | [www.willkie.com/bio](http://www.willkie.com/bio)

On May 21, 2019, at 8:13 AM, Pollack, Barry <[bpollack@robbinsrussell.com](mailto:bpollack@robbinsrussell.com)> wrote:

Thanks, Mike. As you might suspect, my client has only become less accessible to me since you last made this request, not more so. Further, even if you could effectuate service, it would not seem that he is presently in possession of any documents. I leave it to you to decide whether pursuing this subpoena is really a productive use of your time. But, in any event, I do not have authorization to accept service of your subpoena and do anticipate being able to communicate with my client anytime soon in order to inquire whether he will give me such authorization.

Barry J. Pollack  
Robbins, Russell, Englert, Orseck, Untereiner & Sauber, LLP  
2000 K Street, N.W.  
4th Floor

Washington, DC 20006  
(202) 775-4514 phone  
(202) 775-4510 fax  
[bpollack@robbinsrussell.com](mailto:bpollack@robbinsrussell.com)

[<image001.jpg>](#)

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**From:** Gottlieb, Michael <[MGottlieb@willkie.com](mailto:MGottlieb@willkie.com)>  
**Sent:** Tuesday, May 21, 2019 7:47 AM  
**To:** Pollack, Barry <[bpollack@robbinsrussell.com](mailto:bpollack@robbinsrussell.com)>  
**Cc:** Hall, Samuel <[SHall@willkie.com](mailto:SHall@willkie.com)>; Joshua Riley <[jriley@bsflp.com](mailto:jriley@bsflp.com)>  
**Subject:** Re: Correspondence re J. Assange

Mr. Pollack,

I am following up on this request.

Thank you,

Mike

**Michael Gottlieb**  
**Willkie Farr & Gallagher LLP**  
1875 K Street, N.W. | Washington, DC 20006-1238  
Direct: [+1 202 303 1442](tel:+12023031442) | Fax: +1 202 303 2442  
[mgottlieb@willkie.com](mailto:mgottlieb@willkie.com) | [vCard](#) | [www.willkie.com/bio](http://www.willkie.com/bio)

On Apr 22, 2019, at 8:36 AM, Pollack, Barry <[bpollack@robbinsrussell.com](mailto:bpollack@robbinsrussell.com)> wrote:

No, I do not represent WikiLeaks. I represent Mr. Assange only and only with respect to criminal litigation. I will do my best to pass on the message to Mr. Assange with respect to your subpoena when I can.

Barry J. Pollack

On Apr 22, 2019, at 7:18 AM, Gottlieb, Michael <[MGottlieb@willkie.com](mailto:MGottlieb@willkie.com)> wrote:

Mr. Pollack,

We understand that, but nonetheless we trust that you will communicate our request to your client when you do speak to him. If there is another attorney to whom we might address our request, please do let us know. Separately, it would also be helpful for us to know whether you represent



WikiLeaks as an entity.

Regards,

Mike

**Michael Gottlieb**  
**Willkie Farr & Gallagher LLP**  
1875 K Street, N.W. | Washington, DC 20006-1238  
Direct: [+1 202 303 1442](tel:+12023031442) | Fax: +1 202 303 2442  
[mgottlieb@willkie.com](mailto:mgottlieb@willkie.com) | [vCard](#) | [www.willkie.com/bio](http://www.willkie.com/bio)

---

**From:** Pollack, Barry [<mailto:bpollack@robbinsrussell.com>]  
**Sent:** Saturday, April 20, 2019 8:02 AM  
**To:** Gottlieb, Michael <[MGottlieb@willkie.com](mailto:MGottlieb@willkie.com)>  
**Cc:** Hall, Samuel <[SHall@willkie.com](mailto:SHall@willkie.com)>; Joshua Riley  
<[jriley@bsfllp.com](mailto:jriley@bsfllp.com)>  
**Subject:** Re: Correspondence re J. Assange

Mike,

I do not presently have the ability to communicate with my client and am not sure when I will be able to do so.

Barry J. Pollack

On Apr 20, 2019, at 5:53 AM, Gottlieb, Michael  
<[MGottlieb@willkie.com](mailto:MGottlieb@willkie.com)> wrote:

Mr. Pollack,

Thank you for your prompt reply. To clarify, we understand that you do not currently have authorization to accept service of a subpoena on behalf of Mr. Assange. Our letter, however, requests that you ask your client whether, given the extraordinary circumstances, he is willing to provide you with that authorization. We trust you will communicate that request to your client and inform us of his position given the importance of these issues to our respective clients and the public interest.

Regards,

Mike

**Michael Gottlieb**

**Willkie Farr & Gallagher LLP**

1875 K Street, N.W. | Washington, DC 20006-1238

Direct: [+1 202 303 1442](tel:+12023031442) | Fax: +1 202 303 2442  
[mgottlieb@willkie.com](mailto:mgottlieb@willkie.com) | [vCard](#) | [www.willkie.com/bio](http://www.willkie.com/bio)

On Apr 19, 2019, at 4:25 PM, Pollack, Barry  
<[bpollack@robbinsrussell.com](mailto:bpollack@robbinsrussell.com)> wrote:

Thanks. To be clear, I am NOT  
authorized to accept service of  
this subpoena.

Barry J. Pollack  
Robbins, Russell, Englert,  
Orseck, Untereiner & Sauber, LLP  
2000 K Street, N.W.  
4th Floor  
Washington, DC 20006  
(202) 775-4514 phone  
(202) 775-4510 fax  
[bpollack@robbinsrussell.com](mailto:bpollack@robbinsrussell.com)

<[image001.jpg](#)>

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**From:** Gottlieb, Michael

<[MGottlieb@willkie.com](mailto:MGottlieb@willkie.com)>

**Sent:** Friday, April 19, 2019 3:15  
PM

**To:** Pollack, Barry

<[bpollack@robbinsrussell.com](mailto:bpollack@robbinsrussell.com)>

**Cc:** Hall, Samuel

<[SHall@willkie.com](mailto:SHall@willkie.com)>; Joshua Riley

<[jriley@bsflp.com](mailto:jriley@bsflp.com)>

**Subject:** Correspondence re J.  
Assange

Dear Mr. Pollack,

Please see the attached  
correspondence regarding your  
client, Mr. Assange.

Respectfully,

Mike Gottlieb

**Michael Gottlieb**  
**Willkie Farr & Gallagher LLP**  
1875 K Street, N.W. | Washington,  
DC 20006-1238  
Direct: [+1 202 303 1442](tel:+12023031442) | Fax: +1  
202 303 2442  
[mgottlieb@willkie.com](mailto:mgottlieb@willkie.com) | [vCard](#) |  
[www.willkie.com/bio](http://www.willkie.com/bio)

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**Important Notice:** This email message is intended to be received only by persons entitled to receive the confidential information it may contain. Email messages to clients of Willkie Farr & Gallagher LLP presumptively contain information that is confidential and legally privileged; email messages to non-clients are normally confidential and may also be legally privileged.

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organized in the United States under the laws of the State of Delaware, which laws limit the personal liability of partners.

<image001.jpg>

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# EXHIBIT 6

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**From:** Meryl Governski  
**Sent:** Tuesday, September 10, 2019 9:36 AM  
**To:** [wl-legal@sunshinepress.org](mailto:wl-legal@sunshinepress.org)  
**Cc:** Gottlieb, Michael  
**Subject:** Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C)

To the Legal Representatives of WikiLeaks,

This Firm represents Aaron Rich—whose brother Seth was murdered in Washington, D.C. in July 2016—in ongoing federal litigation before the United States District Court for the District of Columbia. *See Rich v. Butowsky et al*, No. 1:18-cv-00681-RJL (D.D.C). We believe that the interests of transparency and open government would be aided by your participation in our litigation. Towards that end, we have for more than a year attempted to reach you and your representatives via diplomatic channels, as well as through legal counsel of Mr. Julian Assange in the United States, Mr. Barry Pollack. We have received no assistance in our efforts to date.

Your website provides this email address ([wl-legal@sunshinepress.org](mailto:wl-legal@sunshinepress.org)) as the proper recipient for “all USA legal correspondence to our lawyers” but also states that you “do not accept electronic serving of legal documents.” We are writing to inquire whether, notwithstanding that declaration, you would be willing to discuss conditions under which you could participate in our litigation, including but not limited to your agreement to accept service of a subpoena issued pursuant to Rule 45 of the Federal Rules of Civil Procedure. Alternatively, we would be pleased to discuss this matter with your outside counsel, if you provide us with the appropriate contact information.

Thank you for your prompt attention to this important matter.

Respectfully,  
Meryl Governski

# EXHIBIT 7

---

**From:** Mimecast Administrator  
**Sent:** Tuesday, September 10, 2019 10:50 AM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Warning

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Warning

This message is a warning that an email you are trying to send has not yet been delivered. You do not have to do anything yet as the email is still queued for delivery.

An email you addressed to email address :  
-- wl-legal@sunshinepress.org

has not yet been delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 6 attempt(s) to deliver over a period of 1 hour(s).

You will receive a rejection notice after a maximum of 2 days if the email cannot be delivered. If you sent the email to multiple recipients you will receive one of these messages for each one which is still undelivered, otherwise they have been sent.

If you have any questions, please contact your local IT support or Email BSFMimecastAdmin@bsflp.com.

-----  
The information contained in this electronic message is confidential information intended only for the use of the named recipient(s) and may contain information that, among other protections, is the subject of attorney-client privilege, attorney work product or exempt from disclosure under applicable law. If the reader of this electronic message is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this communication in error, please immediately notify the sender by replying to this electronic message and then deleting this electronic message from your computer. [v.1]



# EXHIBIT 8

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**From:** Meryl Governski  
**Sent:** Tuesday, September 10, 2019 11:13 AM  
**To:** wl-lawyers@sunshinepress.org  
**Cc:** Gottlieb, Michael  
**Subject:** FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C)

To the Legal Representatives of WikiLeaks,

I am forwarding the below email to you at this email address ([wl-lawyers@sunshinepress.org](mailto:wl-lawyers@sunshinepress.org)) because we received a notice that the email sent to [wl-legal@sunshinepress.org](mailto:wl-legal@sunshinepress.org) was not delivered due to an “unavailable or busy” server. We hope you are able to pay prompt attention to this important matter.

---

**From:** Meryl Governski  
**Sent:** Tuesday, September 10, 2019 9:36 AM  
**To:** 'wl-legal@sunshinepress.org'  
**Cc:** Gottlieb, Michael  
**Subject:** Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C)

To the Legal Representatives of WikiLeaks,

This Firm represents Aaron Rich—whose brother Seth was murdered in Washington, D.C. in July 2016—in ongoing federal litigation before the United States District Court for the District of Columbia. *See Rich v. Butowsky et al*, No. 1:18-cv-00681-RJL (D.D.C). We believe that the interests of transparency and open government would be aided by your participation in our litigation. Towards that end, we have for more than a year attempted to reach you and your representatives via diplomatic channels, as well as through legal counsel of Mr. Julian Assange in the United States, Mr. Barry Pollack. We have received no assistance in our efforts to date.

Your website provides this email address ([wl-legal@sunshinepress.org](mailto:wl-legal@sunshinepress.org)) as the proper recipient for “all USA legal correspondence to our lawyers” but also states that you “do not accept electronic serving of legal documents.” We are writing to inquire whether, notwithstanding that declaration, you would be willing to discuss conditions under which you could participate in our litigation, including but not limited to your agreement to accept service of a subpoena issued pursuant to Rule 45 of the Federal Rules of Civil Procedure. Alternatively, we would be pleased to discuss this matter with your outside counsel, if you provide us with the appropriate contact information.

Thank you for your prompt attention to this important matter.

Respectfully,  
Meryl Governski

# EXHIBIT 9

---

**From:** Mimecast Administrator  
**Sent:** Tuesday, September 10, 2019 12:53 PM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Warning

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Warning

This message is a warning that an email you are trying to send has not yet been delivered. You do not have to do anything yet as the email is still queued for delivery.

An email you addressed to email address :  
-- wl-lawyers@sunshinepress.org

has not yet been delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 6 attempt(s) to deliver over a period of 1 hour(s).

You will receive a rejection notice after a maximum of 2 days if the email cannot be delivered. If you sent the email to multiple recipients you will receive one of these messages for each one which is still undelivered, otherwise they have been sent.

If you have any questions, please contact your local IT support or Email BSFMimecastAdmin@bsfllp.com.

-----  
The information contained in this electronic message is confidential information intended only for the use of the named recipient(s) and may contain information that, among other protections, is the subject of attorney-client privilege, attorney work product or exempt from disclosure under applicable law. If the reader of this electronic message is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this communication in error, please immediately notify the sender by replying to this electronic message and then deleting this electronic message from your computer. [v.1]

# EXHIBIT 10

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**From:** Mimecast Administrator  
**Sent:** Saturday, September 14, 2019 6:49 AM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Failure

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Failure

This is a delivery failure notification message indicating that an email you addressed to email address :  
-- wl-legal@sunshinepress.org

could not be delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 30 attempt(s) to deliver over a period of 93 hour(s).

If you sent the email to multiple recipients, you will receive one of these messages for each one which failed delivery, otherwise they have been sent.

If you have any questions, please contact your local IT support or Email BSFMimecastAdmin@bsfllp.com.

-----  
The information contained in this electronic message is confidential information intended only for the use of the named recipient(s) and may contain information that, among other protections, is the subject of attorney-client privilege, attorney work product or exempt from disclosure under applicable law. If the reader of this electronic message is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this communication in error, please immediately notify the sender by replying to this electronic message and then deleting this electronic message from your computer. [v.1]

# EXHIBIT 11

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**From:** Mimecast Administrator  
**Sent:** Saturday, September 14, 2019 8:31 AM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Failure

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Failure

This is a delivery failure notification message indicating that an email you addressed to email address :  
-- wl-lawyers@sunshinepress.org

could not be delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 30 attempt(s) to deliver over a period of 93 hour(s).

If you sent the email to multiple recipients, you will receive one of these messages for each one which failed delivery, otherwise they have been sent.

If you have any questions, please contact your local IT support or Email BSFMimecastAdmin@bsfllp.com.

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# EXHIBIT 12

## Erica Spevack

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**From:** Meryl Governski  
**Sent:** Friday, September 20, 2019 10:15 AM  
**To:** wl-lawyers@sunshinepress.org; wl-legal@sunshinepress.org  
**Cc:** Gottlieb, Michael  
**Subject:** FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C)

To the Legal Representatives of WikiLeaks,

I am again attempting to forward the below email to you at these email addresses (wl-lawyers@sunshinepress.org<mailto:wl-lawyers@sunshinepress.org> and wl-legal@sunshinepress.org<mailto:wl-legal@sunshinepress.org>). I received a notice that the emails I previously sent to both of these email addresses were not delivered due to an “unavailable or busy” server. We hope you are able to pay prompt attention to this important matter.

From: Meryl Governski  
Sent: Tuesday, September 10, 2019 11:13 AM  
To: 'wl-lawyers@sunshinepress.org'  
Cc: Gottlieb, Michael  
Subject: FW: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C)

To the Legal Representatives of WikiLeaks,

I am forwarding the below email to you at this email address (wl-lawyers@sunshinepress.org<mailto:wl-lawyers@sunshinepress.org>) because we received a notice that the email sent to wl-legal@sunshinepress.org<mailto:wl-legal@sunshinepress.org> was not delivered due to an “unavailable or busy” server. We hope you are able to pay prompt attention to this important matter.

From: Meryl Governski  
Sent: Tuesday, September 10, 2019 9:36 AM  
To: 'wl-legal@sunshinepress.org'  
Cc: Gottlieb, Michael  
Subject: Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C)

To the Legal Representatives of WikiLeaks,

This Firm represents Aaron Rich—whose brother Seth was murdered in Washington, D.C. in July 2016—in ongoing federal litigation before the United States District Court for the District of Columbia. See Rich v. Butowsky et al, No. 1:18-cv-00681-RJL (D.D.C). We believe that the interests of transparency and open government would be aided by your participation in our litigation. Towards that end, we have for more than a year attempted to reach you and your representatives via diplomatic channels, as well as through legal counsel of Mr. Julian Assange in the United States, Mr. Barry Pollack. We have received no assistance in our efforts to date.

Your website provides this email address (wl-legal@sunshinepress.org<mailto:wl-legal@sunshinepress.org>) as the proper recipient for “all USA legal correspondence to our lawyers” but also states that you “do not accept electronic serving of legal documents.” We are writing to inquire whether, notwithstanding that declaration,

you would be willing to discuss conditions under which you could participate in our litigation, including but not limited to your agreement to accept service of a subpoena issued pursuant to Rule 45 of the Federal Rules of Civil Procedure. Alternatively, we would be pleased to discuss this matter with your outside counsel, if you provide us with the appropriate contact information.

Thank you for your prompt attention to this important matter.

Respectfully,

Meryl Governski

# EXHIBIT 13

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**From:** Mimecast Administrator  
**Sent:** Friday, September 20, 2019 11:29 AM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Warning

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Warning

This message is a warning that an email you are trying to send has not yet been delivered. You do not have to do anything yet as the email is still queued for delivery.

An email you addressed to email address :  
-- wl-lawyers@sunshinepress.org

has not yet been delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 6 attempt(s) to deliver over a period of 1 hour(s).

You will receive a rejection notice after a maximum of 2 days if the email cannot be delivered. If you sent the email to multiple recipients you will receive one of these messages for each one which is still undelivered, otherwise they have been sent.

If you have any questions, please contact your local IT support or Email BSFMimecastAdmin@bsfllp.com.

-----  
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# EXHIBIT 14

---

**From:** Mimecast Administrator  
**Sent:** Friday, September 20, 2019 11:29 AM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Warning

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Warning

This message is a warning that an email you are trying to send has not yet been delivered. You do not have to do anything yet as the email is still queued for delivery.

An email you addressed to email address :  
-- wl-legal@sunshinepress.org

has not yet been delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 6 attempt(s) to deliver over a period of 1 hour(s).

You will receive a rejection notice after a maximum of 2 days if the email cannot be delivered. If you sent the email to multiple recipients you will receive one of these messages for each one which is still undelivered, otherwise they have been sent.

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-----  
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# EXHIBIT 15



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**From:** Mimecast Administrator  
**Sent:** Tuesday, September 24, 2019 7:25 AM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Failure

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Failure

This is a delivery failure notification message indicating that an email you addressed to email address :  
-- wl-legal@sunshinepress.org

could not be delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 30 attempt(s) to deliver over a period of 93 hour(s).

If you sent the email to multiple recipients, you will receive one of these messages for each one which failed delivery, otherwise they have been sent.

If you have any questions, please contact your local IT support or Email BSFMimecastAdmin@bsfllp.com.

-----  
The information contained in this electronic message is confidential information intended only for the use of the named recipient(s) and may contain information that, among other protections, is the subject of attorney-client privilege, attorney work product or exempt from disclosure under applicable law. If the reader of this electronic message is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this communication in error, please immediately notify the sender by replying to this electronic message and then deleting this electronic message from your computer. [v.1]

# EXHIBIT 16

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**From:** Mimecast Administrator  
**Sent:** Tuesday, September 24, 2019 7:26 AM  
**To:** Meryl Governski  
**Subject:** [Mimecast Postmaster] Email Delivery Failure

Boies, Schiller & Flexner LLP  
Mimecast Email Alert: Delivery Failure

This is a delivery failure notification message indicating that an email you addressed to email address :  
-- wl-lawyers@sunshinepress.org

could not be delivered. The problem appears to be :  
-- Recipient server unavailable or busy

Additional information follows :  
-- Connection timed out

This condition occurred after 30 attempt(s) to deliver over a period of 93 hour(s).

If you sent the email to multiple recipients, you will receive one of these messages for each one which failed delivery, otherwise they have been sent.

If you have any questions, please contact your local IT support or Email BSFMimecastAdmin@bsfllp.com.

-----  
The information contained in this electronic message is confidential information intended only for the use of the named recipient(s) and may contain information that, among other protections, is the subject of attorney-client privilege, attorney work product or exempt from disclosure under applicable law. If the reader of this electronic message is not the named recipient, or the employee or agent responsible to deliver it to the named recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited and no privilege is waived. If you have received this communication in error, please immediately notify the sender by replying to this electronic message and then deleting this electronic message from your computer. [v.1]

# EXHIBIT 17

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AARON RICH

Plaintiff,

V.

EDWARD BUTOWSKY,  
MATTHEW COUCH  
AMERICA FIRST MEDIA,  
Defendants.

Case No. 1:18-cv-00681-RJL

Honorable Richard J. Leon

**DEFENDANT MATTHEW COUCH'S RULE 26(a) INITIAL DISCLOSURES**

Defendant Matthew Couch submits the following disclosures pursuant to Rule 26(a)(1). These disclosures are based upon information that is now reasonably available to Mr. Couch. He reserves his right to supplement and/or amend these disclosures pursuant to Rule 26(e)(1)

These disclosures do not include the names of any potential experts retained or consulted by Mr. Couch. He will produce information relating to experts as may be appropriate under Rule 26(a)(2) and any Scheduling Orders entered by the Court. In addition, the disclosures do not include documents that may be in the possession of the Plaintiff.

These disclosures do not constitute a waiver of any work product protection and are without prejudice to any other issue or argument.

**I. Individuals Likely to Have Discoverable Information:**

Individuals listed below may have discoverable information that Mr. Couch may use to support his defenses. The description of each person's likely discoverable information is not necessarily limited to the topics described below. Investigation and discovery are

ongoing. Mr. Couch reserves the right to supplement this list as information becomes available.

1. Edward Butowsky  
c/o Counsel

Mr. Butowsky has knowledge of certain facts and circumstances alleged in the complaint.

2. Cassandra Fairbanks  
Address unknown

Ms. Fairbanks has knowledge about statements made by Julian Assange relevant to the leaking of DNC, Clinton campaign and/or John Podesta-related emails and attachments (collectively, “DNC emails”).

3. Michael Isikoff  
Address unknown

Mr. Isikoff has knowledge about the podcasts he has produced relating to, among other things, Aaron Rich, Matt Couch, the alleged DNC hacking and investigations and news reports relating to the foregoing.

4. Malia Zimmerman  
c/o Dechert LLP

Ms. Zimmerman has knowledge about her investigation of and the article she wrote about the leaking of the DNC emails to Wikileaks and the FBI’s report relating to the leaked DNC emails.

5. Joel Rich  
c/o Massey & Gail

Mr. Rich has knowledge of his communications with Mr. Butowsky, Mr. Wheeler and Aaron Rich.

6. Mary Rich  
c/o Massey & Gail

Ms. Rich has knowledge of her communications with Mr. Butowsky, Mr. Wheeler and Aaron Rich.

7. Rod Wheeler  
14006 Silver Teal Way  
Upper Marlboro, MD 20744

Mr. Wheeler has knowledge relating to his communications with Aaron Rich, Mr. Butowsky, Mary Rich, Joel Rich and other persons with knowledge of matters alleged in the Complaint.

8. Kelsey Mulka  
Address unknown  
Ms. Mulka has knowledge about her communications with Aaron Rich relating to Seth Rich.
9. Dr. Tore Linderman  
Address unknown

Dr. Landsman has knowledge about communications between Aaron Rich and Kelsey Mulka relating to Seth Rich.

10. Donna Brazile  
Address unknown

Ms. Brazile has knowledge about her interactions and communications with Aaron Rich and circumstances surrounding the murder of Seth Rich.

11. Seymour Hersch  
Address unknown

Mr. Rich has knowledge of the leaking of the DNC emails to Wikileaks and the FBI's report relating to the leaked DNC emails.

12. Ellen Ratner  
Address unknown

Ms. Ratner has knowledge of her communications with Julian Assange relating to the leak of DNC emails to Wikileaks by one or more DNC insiders or affiliated persons.

13. Christopher Steele  
Address unknown

Mr. Steele has knowledge relating to the role of internal DNC operatives in the alleged hacking of the DNC and the communication of the DNC emails to Wikileaks.

14. Aaron Rich  
c/o Boies Schiller Flexner LLP

Mr. Rich has knowledge of the facts alleged in the complaint.

15. Julian Assange  
Belmarsh Prison, UK

Mr. Assange knows the identity of the individual or individuals who leaked the DNC emails to him. Mr. Assange knows the identity of the individual or individuals to whom payment was made for the DNC emails.

16. Joseph DellaCamera  
Metropolitan Police Department of Washington D.C.  
300 Indiana Avenue, NW Washington, DC 20001

Mr. DellaCamera has knowledge about the murder of Seth Rich.

17. Kevin Doherty  
Nottoway Correctional Center  
Schutt Road Burkeville, VA. 23922

Mr. Doherty has knowledge of the murder of Seth Rich.

18. Pratt Wiley  
Address unknown



Mr. Wiley has relevant information relating to Seth Rich and Aaron Rich derived from conversation with both prior to Seth Rich's murder.

19. District of Columbia Chief Medical Examiner  
OCME  
Dr. Roger A. Mitchell  
401 E. St. SW  
Washington D.C. 20004

Mr. Mitchel has knowledge about the autopsy performed on Seth Rich and the cause of death.

20. Dimitri Alperowitch  
Chief Technology Officer  
CrowdStrike Holdings, Inc.  
150 Mathilda Place, Suite 300  
Sunnyvale, California 9408

Mr. Alperowitch has knowledge of certain matters alleged in the Complaint.

21. Shawn Henry  
President of CrowdStrike Services and Chief Security Officer  
CrowdStrike Holdings, Inc.  
150 Mathilda Place, Suite 300  
Sunnyvale, California 9408

Mr. Henry has knowledge of certain matters alleged in the Complaint.

22. Kim Dotcom  
Address unknown in New Zealand  
kim@kim.com

Mr. Dotcom has information on the leaking of the DNC emails to Wikileaks.

23. Craig Murray  
Address unknown in the United Kingdom

Mr. Murray has information on the leaking of the DNC emails to Wikileaks.

24. Andrew McCabe  
Address unknown

Mr. McCabe has information about the alleged hacking of Seth Rich's gmail account by foreign operatives and the FBI's investigation of Seth Rich's computer.

In addition to the persons identified above, Mr. Couch also identifies the persons named in Plaintiff's Initial Disclosures pursuant to Rule 26(a)(1)(A).

II. **Relevant Documents:**

Mr. Couch has in his possession, custody or control the following categories of documents that may be used to support his defenses.

1. Documents in his own custodial files, to be collected and produced in discovery, including e-mails, social media accounts, audio recordings and other electronic documents; and
2. Documents that have been or will be produced by Plaintiff or third parties in discovery.

Mr. Couch reserves the right to supplement these Initial Disclosures and acknowledges that he will be required to supplement this information based upon further discovery and expert testimony and reports.

III. **Damages:**

Not applicable.

IV. **Insurance Agreements:**

None.

Dated: August 18, 2019

Matthew Couch

MATTHEW COUCH, *pro se*  
4000 S Dixieland A-201  
Rogers, AR 72758

**CERTIFICATE OF SERVICE**

I hereby certify that on August 18, 2019, a copy of the foregoing was served by agreement by electronic mail on the foregoing:

Joshua Riley  
Meryl C. Governski  
BOIES SCHILLER FLEXNER LLP  
1401 New York Ave, N.C  
Washington, DC 2005  
[jriley@fsflip.com](mailto:jriley@fsflip.com)  
[mgovernski@bsflip.com](mailto:mgovernski@bsflip.com)

Micahel J. Gottlieb  
WILLKIE FARR & GALLAGHER LLP  
1875 K. Street, N.W.  
Washington, D.C. 20006  
[mgottlieb@willkie.com](mailto:mgottlieb@willkie.com)

Philip Harvey  
Harvey & Binnalli, PLLC  
717 King Street, Suite 300  
Alexandria VA 22314  
United States of America  
[pharvey@harveybinnal.com](mailto:pharvey@harveybinnal.com)

*Matthew Couch*  
MATTHEW COUCH, *pro se*  
4000 S Dixieland A-201  
Rogers, AR 72758



# EXHIBIT 18

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**AARON RICH,**

**Plaintiff,**

**v.**

**EDWARD BUTOWSKY, *et al.*,**

**Defendants.**

**Case No. 1:18-cv-681-RJL**

**DEFENDANT BUTOWSKY'S RULE 26(a) INITIAL DISCLOSURES**

Defendant Edward Butowsky submits the following disclosures pursuant to Rule 26(a)(1). These disclosures are based upon information that is now reasonably available to Mr. Butowsky. He reserves the right to supplement and/or amend these disclosures pursuant to Rule 26(e)(1).

These disclosures do not include the names of any potential experts retained or consulted by Mr. Butowsky. He will produce information relating to experts as may be appropriate under Rule 26(a)(2) and any Scheduling Orders entered by the Court. In addition, the disclosures do not include documents that may be in the possession of the Plaintiff.

These disclosures do not constitute a waiver of any work product protection and are without prejudice to any other issue or argument.

**I. Individuals Likely to Have Discoverable Information:**

Individuals listed below may have discoverable information that Mr. Butowsky may use to support his defenses. The description of each person's likely discoverable information is not necessarily limited to the topics described

below. Investigation and discovery are ongoing. Mr. Butowsky may supplement this list as information becomes available.

1. Edward Butowsky  
c/o Counsel

Mr. Butowsky has knowledge of some of the facts and circumstances alleged in the complaint.

2. Matthew Couch  
2300 West Ash Street  
Rogers, AR 72758

Mr. Couch has knowledge of some of the facts and circumstances alleged in the complaint.

3. Cassandra Fairbanks  
Address unknown

Ms. Fairbanks has knowledge about the articles she wrote about Seth Rich's murder and investigation and about statements made by Julian Assange about Aaron Rich.

4. Malia Zimmerman  
c/o Dechert LLP

Ms. Zimmerman has knowledge about her investigation of and the article she wrote about Seth Rich's murder and about the FBI's file on the Seth Rich murder investigation.

5. Joel Rich  
c/o Massey & Gail

Mr. Rich has knowledge of his communications with Mr. Butowsky and the hiring of Rod Wheeler to investigate Seth Rich's murder.

6. Mary Rich  
c/o Massey & Gail

Ms. Rich has knowledge of his communications with Mr. Butowsky and the hiring of Rod Wheeler to investigate Seth Rich's murder.

7. Rod Wheeler  
14006 Silver Teal Way  
Upper Marlboro, MD 20744



Mr. Wheeler has knowledge regarding his investigation of Seth Rich's murder, his communications with Mr. Butowsky, his communications with Mary Rich and Joel Rich.

8. Seymour Hersch  
Address unknown

Mr. Hersch has knowledge of his investigation of Seth Rich's murder and communications with Mr. Butowsky regarding the same.

9. Larry Johnson  
Address unknown

Mr. Johnson has knowledge of his investigation of Seth Rich's murder and communications with Mr. Butowsky regarding the same.

10. Ellen Ratner  
Address unknown

Ms. Ratner has knowledge of her communications with Julian Assange about Seth Rich's alleged involvement in the DNC hack and about her request that Mr. Butowsky contact the Rich family.

11. Aaron Rich  
c/o Boies Schiller Flexner LLP

Mr. Rich has knowledge of the facts alleged in the complaint.

12. Julian Assange  
Address unknown, believed to be in custody in the United Kingdom

Mr. Assange may have knowledge concerning the downloading of files from the Democratic National Committee

In addition to the person(s) identified above, Mr. Butowsky also identifies all persons named in Plaintiff's Initial Disclosures pursuant to Rule 26(a)(1)(A).

## **II. Relevant Documents:**

Mr. Butowsky has in his possession, custody or control the following categories of documents that may be used to support his defenses:

1. Documents in his own custodial files, to be collected and produced in discovery, including e-mails, social media accounts, audio recordings and other electronic documents; and
2. Documents that have been or will be produced by Plaintiff or third parties in discovery.

Mr. Butowsky reserves the right to supplement and acknowledges that he will be required to supplement this information based upon further discovery and expert testimony and reports.

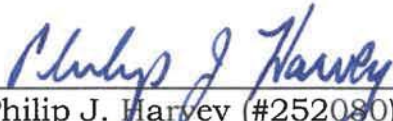
**III. Damages:**

Not applicable.

**IV. Insurance Agreements:**

Mr. Butowsky has a State Farm insurance policy (No. 43CEW0543) with a \$1,000,000 limit, inclusive of litigation expenses, which may be available to indemnify him against a judgment rendered in this case. A copy will be provided.

Dated: August 16, 2019

  
Philip J. Harvey (#252080)  
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717 King Street, Suite 300  
Alexandria, Virginia 22314  
(703) 888-1943  
(703) 888-1930 (fax)  
pharvey@harveybinnall.com

*Counsel for Defendant  
Edward Butowsky*


**CERTIFICATE OF SERVICE**

I hereby certify that on August 16, 2019, a copy of the foregoing was served by agreement by electronic mail on the following:

Joshua Riley  
Meryl C. Governski  
BOIES SCHILLER FLEXNER LLP  
1401 New York Ave, N.W.  
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jriley@bsfllp.com  
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Michael J. Gottlieb  
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Washington, DC 20006  
mgottlieb@willkie.com

Matthew Couch  
2300 W Ash Street  
Rogers, Arkansas 72758  
mattcouch@af-mg.com  
*Co-Defendant*

  
Philip J. Harvey (#252080)

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

AARON RICH

Plaintiff,

v.

EDWARD BUTOWSKY,  
MATTHEW COUCH, and  
AMERICA FIRST MEDIA,

Defendants.

Civil Action No. 1:18-cv-00681-RJL

Hon. Richard J. Leon

**[PROPOSED] ORDER**

UPON CONSIDERATION of Plaintiff's Motion for Permission to Serve Third-Party WikiLeaks Via Twitter, it is hereby:

ORDERED that Plaintiff's Motion is Granted; and

ORDERED that Plaintiff is permitted to serve third-party WikiLeaks with a Rule 45 subpoena via Twitter.

SO ORDERED.

ENTERED this \_\_\_\_ day of \_\_\_\_, 2019

\_\_\_\_\_  
Judge Richard J. Leon  
U.S. District Court for the District of Columbia

**NAMES OF PERSONS TO BE SERVED WITH PROPOSED ORDER UPON ENTRY**

In accordance with LCvR 7(k), listed below are the names and addresses of the attorneys and parties entitled to be notified of the proposed order's entry:

Michael J. Gottlieb  
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(703) 888-1943  
(703) 888-1930 facsimile

*Attorney for Defendant Edward Butowsky*

Edward Butowsky  
2200 Bradbury Court  
Plano, TX 75093

\*The Court has granted Mr. Harvey's withdrawal; however, his withdrawal is currently under reconsideration. As such, Edward Butowsky should also be notified.

Eden P. Quainton  
Quainton Law, PLLC  
1001 Avenue of the Americas, 11th Floor

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(212) 813-8389  
(212) 813-8390 facsimile

*Attorney for Defendant Matthew Couch*

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2300 West Ash Street  
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*Pro Se*